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TAGS: [ETRD](#) [KIPR](#) [TU](#)
SUBJECT: New Intellectual Property Legislation Enters
into Force

SENSITIVE BUT UNCLASSIFIED - PROTECT ACCORDINGLY

Ref: Ankara 977

Summary

1. (U) Legislation enacted in March contains several strong anti-piracy provisions, including a ban on street sales of all copyright products and authorization for law enforcement authorities to take action without a complaint by the rightholder. However, some in the intellectual property industries are unhappy with reduced sanctions for pirates to non-deterrent levels. The Culture Ministry informed us that they have coordinated closely with law enforcement authorities on the law's application, and that sweeps aimed at pirates have begun in Ankara. The music industry has succeeded in boosting collection of certain royalty payments. Philip Morris claims that counterfeiting of its products is a growing problem. End Summary.

New Intellectual Property Legislation

2. (U) Law 5101, published in the March 12 State Gazette, amends earlier legislation on copyright, cinema, municipalities and broadcasting with the intention of suppressing piracy. IPR industry sources highlight the following features of the new law:

-- A ban on street sales of all copyright products, including legal ones. This should not only suppress sale of unauthorized works, but should also reduce the scope of the unregistered economy by making it more difficult to sell even legitimate works without paying tax;

-- Authorizing all law enforcement units, as well as the armed forces and municipalities, to make ex officio seizures of materials;

-- Abolition of the (mostly ineffective) provincial inspection committees previously charged with IPR enforcement. However, committees in Ankara, Izmir and Istanbul will continue to operate;

-- Application of organized crime legislation and sanctions to some forms of piracy;

-- Amendments removing penal provisions from the Cinema Law. Judges have generally applied the Cinema Law, with penalties weaker than those in the Intellectual and Artistic Works Law, in piracy cases.

-- Reduced penalties, although in cases of recidivism, the prison terms and fines cannot be suspended. The GOT maintains that there was no alternative to reduced penalties as Turkish judges refused to apply the strict sanctions in previous legislation. Film industry representatives believe the new law's penalties are not deterrent.

-- The law also contains provisions on royalties to be paid by broadcasters and by public premises such as hotels and bars, as well as on Internet-based piracy. State-operated Turkish Radio and Television will benefit from provisions which do not allow rightholders to refuse permission to broadcast their works upon regular payment of royalties.

13. (U) Post will forward an English language translation of the law when it becomes available.

Enforcement Starting

14. (SBU) In an April 6 meeting with Econoff and Econ Specialist, Abdurrahman Celik, the Culture Ministry's General Director for Copyright and Cinema, and his Deputy Gunay Gormez, told us that the Ministry had briefed and coordinated extensively with other GOT agencies on the new law, and that enforcement of the ban on street sales has already begun. Gormez stated that the Interior Ministry issued a circular to police and coast guard units around the country on March 31 summarizing provisions of the new law. The Culture Ministry is also working on a series of seminars for law enforcement officials in 10 provinces, as well as a six-month public awareness campaign. Both are to begin in late April.

15. (SBU) Celik told us that, in the first street sweeps under the new law on April 5, 98 individuals were arrested in Ankara. In these raids, 27,000 compact disks and 4,000 books were confiscated. He advised that enforcement in Istanbul would follow shortly. Gormez predicted that open street sales of pirated merchandise should be eliminated within about a month.

Industry Reaction

16. (SBU) Representatives of the IPR industries have generally viewed the legislation as a positive step, and were hopeful that enforcement would be effective. AMPEC, which is affiliated with the Motion Picture Association, however, is critical of reduced sanctions contained in the new legislation and believes they are not a serious deterrent. AMPEC's General Manager also pointed out that the law forces rightholders to work through professional associations in collecting royalties from hotels, restaurants and other public places, but noted that this is more an issue for the music than the film industry. In early March, the Managing Director of Oxford University Press opined that the law looked helpful, but expressed doubt that it could be effectively enforced given that Turkish judges do not view piracy as a serious crime. Microsoft's Anti-Piracy manager praised the fact that piracy has become a "public crime", enabling law enforcement authorities to make seizures without a complaint from the rightholder. The President of MU-YAP (the Turkish Phonographic Industry Society and affiliate of the International Federation of the Phonographic Industry) told us he would work in support of GOT implementation of the new law, particularly its enforcement.

Other Issues

17. (U) Royalty Collections: In early March, MU-YAP told us that the organization had succeeded in collecting about USD 2 million in 2003 from broadcasters, up from virtually nothing a few years ago. According to press reports, MU-YAP, working in concert with other professional music associations, has succeeded in compelling a host of large Turkish and international retailers and restaurants to pay royalties on music played in their premises by launching court cases against them. U.S. companies which have agreed to pay royalties in Turkey include McDonald's, Pizza Hut, Kentucky Fried Chicken and Toys'R Us.

18. (U) Cigarette Counterfeiting: Philip Morris representatives recently told us that counterfeiting of their cigarettes, mainly by Chinese exporters, was a growing problem. The company estimates that around 2

billion cigarettes in its brands were counterfeited in
12003. (Note: Annual sales for the company in Turkey
are estimated at 38 to 40 billion cigarettes this year.)

Comment

19. (U) On balance, the new legislation can be considered
a step forward in IPR protection, but the principal
issue is effective enforcement. GOT training, as well
as an upcoming U.S. Patent and Trademark Office seminar
on enforcement, should be helpful in this area. In
addition, the complete ban on sales of books, films and
music on Turkish streets, combined with public crime
provisions in the new law, should make enforcement
relatively easier for the authorities and should make
life a bit more difficult for pirates. Edelman